

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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In re: PURDUE PHARMA
BANKRUPTCY APPEALS

21 cv 7532 (CM)
21 cv 7585 (CM)
21 cv 7961 (CM)
21 cv 7962 (CM)
21 cv 7966 (CM)
21 cv 7969 (CM)
21 cv 8034 (CM)
21 cv 8042 (CM)
21 cv 8049 (CM)
21 cv 8055 (CM)
21 cv 8139 (CM)
21 cv 8258 (CM)
21 cv 8271 (CM)
21 cv 8548 (CM)
21 cv 8557 (CM)
21 cv 8566 (CM)

This Filing Relates to : ALL MATTERS

SCHEDULE FOR ORAL ARGUMENT

McMahon, J.:

Counsel, after listening to your session before the very indulgent Judge Drain yesterday, I think I had better set some rules for our oral argument on November 30, as I intend to be much less indulgent.

We will begin at 9:00 AM and proceed as follows:

Appellants to have from 9:00-11:15 to present argument. We will program a short break into that period. You can divide the time as you would like. But at 11:15, appellants are done. The figurative little red light goes off and everyone sits down. Just like the Court of Appeals.

I will hear the pro se litigants from 11:15-11:30. They will be appearing remotely.

We will break for lunch from 11:30-12:30. I realize that is on the early side, but we have a shortage of court reporters and they will need a significant break. So will I.

Debtors and the other plan proponents have from 12:30-2:45 to present their argument. Again, we will program a short break into that time; and again, you can divide the time as you wish. And again, the little red light goes off at 2:45 and everyone sits down.

I don't necessarily want reply argument/rebuttal. I want an hour at the end, from 3:00-4:00, for my own purposes. I may ask to hear rebuttal; I may simply want to ask additional questions. You can anticipate a hot bench; my clerks and I are deeply immersed in the record and the relevant cases. In fact, on Monday, November 29, I will probably send out some questions that you should be prepared to address.

At 4:00 PM, we will be through with oral argument. We will adhere strictly to these time limits. You should plan your arguments accordingly.

I don't need a lot of exposition or background at oral argument. The briefs I have read are excellent and set out appellants' positions quite well. I have no reason to believe that the Debtors' briefs and those of their allies will be any less thorough or effective in presenting their position. There are fascinating legal issues to work through and that is how we should spend most of our time together. Furthermore, it is not my impression that there is much dispute over Judge Drain's findings of fact; it seems to be his conclusions of law that divide the parties. But since appellants are arguing that the Bankruptcy Court lacks subject matter or constitutional jurisdiction over certain aspects of the Confirmation Order, they should be prepared to argue to me as though Judge Drain's findings of fact and conclusions of law in those respects were a Report and Recommendation to the district court. Appellees should be prepared to respond accordingly.

While I see that there is a little extra time cushion after yesterday's proceedings, I probably won't be able to take advantage of it. I am starting a two week criminal trial on Tuesday, December 7, and I have a full calendar on Monday, December 6. So while it is not impossible that that you will have to wait until shortly before December 20 for a decision, it is highly unlikely. If I can get a decision out before I have to start my criminal trial, I will do so. I certainly intend to try.

Dated: November 10, 2021

A handwritten signature in blue ink, appearing to read "Colleen M. Kelly", written over a horizontal line.

U.S.D.J.

BY ECF TO ALL COUNSEL